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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,589	12/01/2000	Erik Krimm	225/49427	1848

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EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/726,589

Applicant(s)

KRIMM ET AL.

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 and 26-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 20, 21, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 5-7, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 18 September 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The finality of the Office Action is withdrawn due to a careful review of Sander, 6,182,527, filed on July 2, 1999. Claims 20-25 are rejoined as agreed on the personal interview conducted on August 29, 2002.

### ***Election/Restrictions***

Allowed claim 5 is generic to a plurality of disclosed patentably distinct species comprising the stamped parts being riveted, soldered, or welded. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species embraced by the allowed genus.

Applicant is advised that a complete reply to this requirement must include an identification of the species that is elected and a listing of all claims readable thereon. Applicant is entitled to consideration of claims to a reasonable number of disclosed species in addition to the elected species provided all the claims to each additional species are written in dependent form or otherwise include all the limitation of an allowed generic claim as provided by 37 CFR 1.141. Applicant's reply must include an identification of such additional species along with a listing of the claims readable on each additional species.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-4, 20, 21, 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Sander, 6,182,527.

Regarding claim 1, Sander discloses in Figures 1, 3 and 4 a plate functional component comprising at least three stamped parts **11, 12, 13**. One of the stamped parts **11, 12, 13** is a middle stamped part **11**. The stamped parts **11, 12, 13** lie flat against one another. The stamped parts **11, 12, 13** are unreleasably connected to one another and each of the stamped parts **11, 12, 13** have at least two engagement holes **2, 7**. The engagement holes **2, 7** are arranged congruently with respect to one another. At least one of the engagement holes **2, 7** in the middle stamped part **11**, has a hole wall **16** provided with an elastomeric plastic cover **24**.

Regarding claim 2, Figure 4 discloses the elastomeric plastic cover **24** is formed from plastic borders **18, 25**. The plastic borders **18, 25** are secured in undercuts **26** or cutouts of the middle stamped part **11** and surround a hole edge **A**.

Regarding claims 3 and 21, Sander discloses the stamped parts **11-13** are riveted, soldered or welded together. Figure 3 shows the parts **11-13** riveted by head **22** (col. 4, lines 57-60).

Regarding claim 4, the plastic cover **24** is around a hole edge **A**. Applicant is reminded that the method of forming the plastic cover by injection-moulding plastic is not germane to the issue of patentability of the functional component itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113.

Regarding claim 8, Sander discloses spacer lugs **A2** (see marked-up attachment of Fig. 3) on inner sides of the outer stamped parts **12,13** facing towards the middle stamped part **11**. The spacer lugs **22** are formed from a material that is harder than the injection-moulded plastic (claim 5).

Regarding claim 20, Sander discloses a gate plate comprising at least three stamped metal sheet parts **11-13** and an elastomeric plastic cover **24**. The parts **11-13** are stacked together in sandwich form. Each of the parts **11-13** includes at least one engagement hole **7** aligned with engagement holes **7** in the other parts **11-13**. The

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cover **24** is provided for surrounding at least a portion of the engagement hole **7** in a middle one of the parts **11-13**.

Regarding claim 24, the cover **24** is clicked into place on the metal part **11**.

Regarding claim 25 the cover **24** is injection-moulded onto the middle part **11** (col. 5, line 48).

***Allowable Subject Matter***

Claims 5-7, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 5, the prior art of record does not disclose or suggest a functional component comprising connecting webs leading from the plastic cover; and,

regarding claims 6 and 7, these claims depend from claim 5;

regarding claim 22, the prior art of record does not disclose or suggest a gate plate comprising three stamped metal sheet parts soldered together; and,

regarding claim 23, the prior art of record does not disclose or suggest a gate plate comprising three stamped metal sheet parts welded together.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

September 25, 2002

Attachment: one marked-up copy of Sander, 6,182,527.

